

Claim 30 (New): The method of claim 29, wherein said buttress plate comprises a plurality of distal holes, said method further comprising:

inserting a locking screw through at least one of said distal holes of said buttress plate, at least one of the distal holes of said intramedullary nail and said lateral cortex of femur bone substantially 90 degrees to the longitudinal axis of said intramedullary nail.

REMARKS

Claims 1-26 were examined in the outstanding non-final office action mailed on 04/15/2008 (hereafter "Outstanding Office Action"). All claims were rejected. By virtue of this paper, claims 1, 2, 3, 7-9, 14-15, 18, 21 and 24 are sought to be amended, claims 4-6, 10-13, 16-17, 19-20, 22-23 and 25-26 are sought to be cancelled, and new claims 27-30 are sought to be added. The amendments and additions are believed not to introduce new matter, and their entry is respectfully requested. The cancellations and amendments are made without prejudice or disclaimer. Claims 1, 2, 3, 7-9, 14-15, 18, 21, 24 and 27-30 are respectfully presented for consideration further in view of the below remarks.

Examiner Interview

In a telephone interview with Examiner Merene on or around June 9 2008, it was clarified that the Patent Office is permitted to examine claims 1-26 in the Article 19 response of the PCT process. The Undersigned Representative agreed to continue prosecution based on the 26 claims examined in the Outstanding Office Action.

The Undersigned Representative then requested the Examiner is the Applicant is entitled to refund of the additional fees paid. The Examiner requested that the OIPE be contacted for the same.

The applicant is believed to have met the burden of making of record the Substance of the Interview if one is required. See MPEP 713.04 for further clarification.

Information Disclosure Statement (IDS)

Applicant thanks the Examiner for considering and making of record the IDS filed in 10/26/2006. The Examiner is also thanked for acknowledging the same in the Outstanding Office Action.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-26 were rejected under 35 U.S.C. § 112 as being as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The inconvenience caused to the Examiner due to the lack of clarity in the

examined claims is regretted. The Examiner is further thanked for continuing examination, and thereby furthering prosecution.

The claims as now presented, are believed to be clear and withdrawal of the rejection is respectfully requested.

Claim Objections

Claims 20 and 21 were objected to under 37 CFR 1.75 (c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. In response, claim 20 is sought to be canceled and claim 21 is sought to be amended to depend only from claim 18. Withdrawal of the objections is respectfully requested.

Specification

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) has been required. A substitute specification correcting various informalities is submitted herewith.

It is noted that the substitute specification contains the 26 claims examined by the Examiner in the Outstanding Office Action.

The substitute specification contains no new matter.

Claim Rejections Under 35 U.S.C. § 103

Claims 1-23, 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zirkle, JR US 2002/0151897 in view of Crickenberger et al US 5,728,128, Brumfield US 5,562,666, Vesbty US 3,892,233, Weaver US 6,623,486, and Luter US 5,951,557.

Without acquiescing to any of the contentions in the Outstanding Office Action, it is respectfully asserted that the presented claims are allowable over the art of record.

For example, currently amended claim 1 recites that "... said second plurality of proximal holes and said second plurality of distal holes are in different planes", as illustrated in Figures 9, 28 and 31 of the specification.

Thus, it may be appreciated that the proximal holes (of the targeting device) are in the same/first plane as that formed by the long axis of the medullary canal and the mid-section of head and neck portions of the femur. The distal holes are in a (second) plane which is offset from the first plane by the ante version angle.

5

By having the two types of holes in different planes, there are various benefits to a surgeon as well as the patient, as explained in the specification of the instant application.

The art of record neither discloses nor reasonably suggests such a feature.

10

For example, Figures 1 and 2 of Zirkle clearly show the proximal holes and the distal holes being located in the same plane. Proximal holes 26 in proximal targeting arm 18, and distal holes 30 in distal targeting arm 22 are in the same plane. Proximal holes 28 and distal holes 40 in intramedullary nail 12 are also in same plane.

15

The remaining references relied by the Examiner in the above-noted rejection are believed to not cure this deficiency.

20

Crickenberger, for example merely appears to teach how to measure the ante version angle, and does not show proximal holes or distal holes, and has no targeting facility. Nor does Crickenberger appear to have any facility to mount or connect an intramedullary nail.

25

Accordingly, it is asserted that the rejection under 35 U.S.C. § 103 is defective. Withdrawal of the rejection as against claim 1 is respectfully requested.

30

New claim 27 is independently allowable in reciting a buttress plate in combination with proximal sliding hip pins, to provide support to the greater trochanter and a lateral cortex of the femur. In particular, it is recited that a hip pin passes through a proximal hole (in the intrameduallary nail placed in the medullary canal of the femur) and a central hole in the buttress plate.

The art of record does not teach or reasonably suggest such a feature either.

The Examiner relies on Weaver and/or Luter to provide the related teachings (see page 12 lines 1-15 of the Outstanding Office Action).

5 It is respectfully noted that Weaver teaches buttress plates for a different purpose (see, for example, Figure 9 of Weaver). At least Figure 9 of Weaver does not show that the screws there would be passing through the holes of a intramedullary nail. Luter does not cure that deficiency.

10 It is accordingly submitted that new claim 27 is allowable over the art of record.

New claims 28-30 are also allowable over the art of record for one or more of the reasons noted above. Claims 2, 3, 7-9, 14-15, 18, 21, and 24 depend from new claim 27, and are thus allowable over the art of record at least for the reasons noted above with respect to claim 1.

15
Conclusion

Accordingly all the objections and rejections of record are believed to be overcome. Withdrawal of the rejections and continuation of examination is respectfully requested. The Examiner is invited to telephone the undersigned representative at 20 707.356.4172 if it is believed that an interview might be useful for any reason.

Date: August 14, 2008

Respectfully submitted,
/Narendra Reddy Thappeta/

Signature

Printed Name: Narendra Reddy Thappeta

Attorney for Applicant

Registration Number: 41,416